

270001

#24

ORIGINAL

(30)  
RB5/11

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**BARBARA A. WILHELM,**  
**Plaintiff**

**v.**

**COMMONWEALTH OF PA.;**  
**PENNSYLVANIA STATE POLICE;**  
**COLONEL PAUL J. EVANKO,**  
**COMMISSIONER; LIEUTENANT**  
**COLONEL THOMAS K. COURY; and**  
**CAPTAIN MICHAEL. D. SIMMERS,**  
**Defendants**

**NO. 1:CV-01-1057**

**(JUDGE RAMBO)** ✓

**FILED**  
**HARRISBURG, PA**

**APR 30 2002**

**MARY E. ANDREA, CLERK**  
**Per**  **Deputy Clerk**

**DEFENDANTS' RESPONSE TO PLAINTIFF'S  
STATEMENT OF FACTS IN SUPPORT OF  
SUMMARY JUDGMENT**

Defendants respond to plaintiff's statement of facts set forth in her motion for summary judgment as follows. Where pertinent, defendants set forth additional undisputed facts:

**1. Undisputed.**

a. Most of plaintiff's time was not spent on clerical duties but instead was spent on responding to requests for information from members of the General Assembly and their staff members (Wilhelm dep. 53; Wilhelm Ex. 1).

b. With the exception of a few weeks during the period plaintiff was employed in the Office, there was no clerical staff person (Wilhelm dep. 46-49, 97).

c. Because plaintiff was talented and had clerical skills, other members of the Office did occasionally rely on her to help complete clerical tasks (Morris dep. 146-147; Wilhelm dep. 94-95).

2. **Disputed.** (Morris dep. 147; Wilhelm dep. 112; Miller dep. 112-113.

3. **Undisputed.**

4. **Disputed.**

a. Captain Miller originated the idea of reorganizing the Legislative Affairs Office (Miller dep. 61-64).

b. Colonel Evanko then permitted the reorganization to occur under his authority (Evanko dep. 102-103).

5. Plaintiff points to no evidence supporting this assertion. Therefore, defendants are not required to point to evidence disputing it. Defendants further point out that plaintiff fails to identify evidence of similarly situated men who were treated differently from plaintiff.

6. **Undisputed.**

7. **Undisputed.**

8. **Disputed.**

a. Ms. Polek said plaintiff's separation from the State Police fit

the definition in the Commonwealth Personnel Rules for furlough. She did not say that plaintiff's separation did not fit the definition of dismissal (Polek dep. 5-6, 11)

**9. Disputed.**

a. Ms. Polek said plaintiff's separation from the State Police fit the definition in the Commonwealth Personnel Rules for furlough. She did not say that plaintiff's separation did not fit the definition of dismissal (Polek dep. 5-6, 11).

**10. Disputed and undisputed.** Defendants dispute that plaintiff's separation was improperly coded. (Polek dep. 5-6, 11) Defendants do not dispute that Commonwealth personnel managers can access plaintiff's personnel history.

**11. Disputed.** (Polek dep. 15; *see also*, Complaint, Ex. Q, pp. 2-3 )

**12. Disputed.** (Polek dep. 1; *see also*, Complaint, Ex. Q, pp. 2-3)

**13.** Plaintiff points to no evidence supporting this assertion.


Therefore, defendants are not required to point to evidence disputing it.

Defendants further point out that plaintiff fails to identify evidence of similarly situated men who were treated differently from plaintiff.

**Respectfully submitted,**

**D. MICHAEL FISHER**  
**Attorney General**

**BY:**

  
**SUSAN J. FORNEY**  
**Chief Deputy Attorney General**  
**I.D. No. 27744**

**Office of Attorney General**  
**Litigation Section**  
**15<sup>th</sup> Floor, Strawberry Square**  
**Harrisburg, PA 17120**  
**(717)787-9831**

**DATED: April 30, 2002**

